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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,464	04/30/1999	STEVEN J. SISTARE	P3949	8397

7590 06/04/2003
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AUSTIN, TX 78767

EXAMINER

HO, THE T

ART UNIT	PAPER NUMBER
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2126

DATE MAILED: 06/04/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application

09/303,464

Applicant(s)

SISTARE ET AL.

Examiner

The Thanh Ho

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 1999.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the application filed 4/30/1999.
2. Claims have been examined and are pending in the application.

Claim Rejections - 35 USC § 112

3. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis for "cp" in line 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 6-7, and 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by May U.S Patent No. 4,783,734.

As to claim 1, May teaches a process (inputting process, column 39 lines 29-41) and a spin daemon (processor to schedule, column 39 lines 24-41), the process is waiting for a flag (PRIFLAG 47, column 34 line 45) to change condition (the process carry out a test condition, column 34 lines 55-67, and PRO Run, column 19 lines 47-52) transmit a flag monitor request (added to a list or queue of processes, column 31 lines

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52-56) to the spin daemon and de-schedule itself (descheduled, column 31 lines 41-62), and after the flag changes condition (column 34 lines 41-68), enable the process to be reschedule (reschedule, column 34 lines 67-68) for execution by the computer.

As to claim 2, May teaches spin daemon is configured to monitor a plurality of flags (Priority 1 Process Work Spaces P, Q, R, and S, Fig. 4), each process having two flags to change the priority from low to high (PRIFLAG changes condition, column 34 lines 47-68), a list of identifying flags (a list of low priority processes, Fig. 4 and Brief Description of the Drawings, column 3 lines 17-19) while a high priority process is being executed (Fig. 4 and column 7 lines 45-54).

As to claims 6-7, note the discussions of claims 1-2 above, respectively.

As to claims 11-12, note the discussions of claims 1-2 above, respectively.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-4, 8-9 and 13-14 are rejected under 35 US C. 103(a) as being unpatentable over May in view of Conger (Windows API Bible, 1992 publication).

As to claim 3, May does not explicitly teach flags contained in a memory segment. Conger teaches memory segment ("segment", page 612 line 10 and the uses

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of memory segment on pages 612-614). It would have been obvious to apply the teachings of Conger to the system of May because this provides the flags of May are contained in a memory segment, therefore the memory holding the flags can be deallocated when that process is finished. As the result, the system of May will work more efficiently.

As to claim 4, the spin daemon of May is not being configured to provide a handle or use of memory segment. The memory segment of May as modified by Conger provides an identifier for the memory segment (a far address or NEAR addresses, page 612 lines 17-30). Note the discussion of claim 3 for motivation to include the teaching of a memory segment. As to the handle, Conger also teaches the use of a handle (HWND hWnd, pages 9 lines 39-56 and page 10 lines 1-17). When a process makes a request, it would have been obvious to provide a handle in May's process (a spin daemon) so that the handle can be used to perform the flag monitor request by any other processes of May's system, and the handles in Conger can trace different types of system resources (Conger, page 9 lines 20-23).

As to claims 8-9, note the discussions of claims 3-4 above, respectively.

As to claims 13-14, note the discussions of claims 3-4 above, respectively.

6. Claims 5, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over May in view of Arthur Dumas (Programming WinSock, 1995 publication).

As to claim 5, May does not explicitly teach the spin daemon is configured to communicate over a socket. Arthur teaches WinSock (WINSOCK32.DLL, Fig. 3.1 page

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45) as a communication mechanism between processes. It would have been obvious to apply the teachings of Arthur to the system of May because this provides a feature in form of upgradeable DLL library for future improvement.

As to claims 10 and 15, note the discussion of claim 5 above.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to The Thanh Ho whose telephone number is 703-306-5540. A voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C 20231


Or fax to:

- AFTER-FINAL faxes must be signed and sent to (703) 746 – 7238
- OFFICAL faxes must be signed and sent to (703) 746 – 7239
- NON OFFICAL faxes should not be signed, please send to (703) 746 – 7240

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TTH
May 29, 2003



ST. JOHN COURTENAY III
PRIMARY EXAMINER